

SEND

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 11-6992 PA (MANx)	Date	November 17, 2011
Title	Jeffery Howe, et al. v. Bank of America Corporation, et al.		

Present: The Honorable	PERCY ANDERSON, UNITED STATES DISTRICT JUDGE
-------------------------------	--

Paul Songco

Deputy Clerk

Court Reporter

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Proceedings: ORDER TO SHOW CAUSE

Before the Court is a Complaint filed by plaintiffs Jeffery Howe and Cheryl Howe (collectively “Plaintiffs”). Plaintiffs have sued defendants Bank of America Corporation, American Honda Finance Corporation, TransUnion LLC, Experian Information Solutions, Inc., Equifax Information Services, LLC, and Does 1-10 (collectively “Defendants”) under various provisions of the Fair Credit Reporting Act (“FCRA”), Rosenthal Fair Debt Collection Practices Act (“RFDCPA”), and the California Consumer Credit Reporting Agencies Act.

According to Count 1 of the Complaint, Bank of America improperly failed to credit a deposit into Plaintiffs’ bank account, and thus Bank of America’s report to the major credit agencies was inaccurate. (Compl. ¶¶ 10-15.) Plaintiffs do not allege whether the account is a joint account or on what type of payment to Bank of America they were determined to be past due. Defendants also allege that Bank of America’s collection efforts violated the RFDCPA.

According to Count 2, Plaintiffs leased a Honda vehicle, obtaining a loan from American Honda Finance Corporation (“Honda Finance”). Honda Finance allegedly forwarded the payment information to the wrong address with the wrong name, thus resulting in late payments by Plaintiffs. Plaintiffs allege that Honda Finance entered into a settlement with them that was breach when Honda “failed to remove the derogatories [sic]” from their credit profile. (Id. ¶¶ 16-17.) Defendants also allege that Honda Finance’s collection efforts violated the RFDCPA.

The only factual allegations common to these claims appears to be that the derogatory information was sent to the credit agencies (defendants TransUnion, Experian and Equifax), and that the Defendants all allegedly violated the Fair Credit Reporting Act. (Id. ¶¶ 18-25.) Plaintiffs do not allege that the Bank of America payment or account is related to the Honda Finance payment or account.

SEND

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 11-6992 PA (MANx)	Date	November 17, 2011
Title	Jeffery Howe, et al. v. Bank of America Corporation, et al.		

Federal Rule of Civil Procedure 20(b) governs joinder of defendants. It provides:

Persons . . . may be joined in one action as defendants if:

(A) any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and

(B) any question of law or fact common to all defendants will arise in the action.

Fed. R. Civ. P 20(b). “The first prong, the ‘same transaction’ requirement, refers to similarity in the factual background of a claim.” Coughlin v. Rogers, 130 F.3d 1348, 1350 (9th Cir. 1997).

Based on the factual allegations in the Complaint, it does not appear that Plaintiffs’ claims against Defendants Honda and Bank of America arise out of the same transaction or occurrence. The Court therefore orders Plaintiffs to show cause in writing, no later than December 2, 2011, why one or more parties should not be dropped from this case for improper joinder. See Fed. R. Civ. P. 18, 20, 21; see also Coughlin, 130 F.3d at 1351 (finding misjoinder where “[e]ach claim raises potentially different issues, and must be viewed in a separate and individual light by the Court.”).

In response to this Order to Show Cause, Plaintiffs may, if they so choose, file separate actions against Defendant, with new complaints and filing fees.

IT IS SO ORDERED.